

## CIVIL DOCKET

DAUGHERTY

## UNITED STATES DISTRICT COURT

Jury demand date: 4-4-1969

D. C. Form No. 106A Rev.

TITLE OF CASE		ATTORNEYS			
<p>✓ PUBLIC SERVICE COMPANY OF OKLAHOMA, a Domestic Corporation</p> <p>vs</p> <p><del>CRANE COMPANY, a foreign corporation</del> and BLACK &amp; VEATCH, CONSULTING ENGINEERS, a partnership</p> <p>additional pltfs.: Great America Insurance Co., Phoenix Insurance Co., and National Surety Co. and Underwriters of Lloyds</p>		<p>For plaintiff:</p> <p>Joseph A. Sharp, Best, Sharp, Thomas &amp; Glass 200 Franklin Building Tulsa, Oklahoma 74103 582-8877</p> <p>For defendant:</p> <p><i>1 Bryan Tabor</i> Paul McBride, (<del>Black &amp; Veatch</del>) Rucker &amp; Tabor P. O. Box 1439 Tulsa, Oklahoma 74101 587-3361 700 Mid-Continent Gerard K. Donovan/ (<del>Crane Co.</del>) Bldg. <del>Rogers, - Donovan &amp; Rogers</del> 582-3164 1311 Petroleum Club Bldg. Tulsa, Oklahoma 74119 David R. Hardy, John T. Martin Shook, Hardy, Ottman, Mitchell &amp; Bacon 915 Grand Avenue Kansas City, Missouri 64106</p>			
STATISTICAL RECORD	COSTS	DATE 1969	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 5 mailed 5-1-69	Clerk	4-4	Tabor	15 00	
		4-10-69	C/D 44		15 00
		11-19-71	Sharp	5 00	
		11-24-71	C.D.No.24		5 00
J.S. 6 mailed 11-1-71	Marshal				
Basis of Action: Money judgment for damages & breach of warranties	Docket fee				
	Witness fees				
Action arose at:	Depositions				
Tulsa, Oklahoma					

DATE	PROCEEDINGS	Date Order or Judgment Noted
4-4-69	Petition for removal from District Court of Tulsa County, Oklahoma, filed. g	
4-4-69	Bond on removal, filed; \$500.00, Oklahoma Surety Company, surety. g	
4-4-69	Notice of removal, filed. g	
4-4-69	Answer of Black & Veatch Consulting Engineers, filed. g	
4-8-69	Acknowledgement of The Clerk of District Court for Tulsa County, Oklahoma, of Receipt of Copy of Notice, filed. js	
4-18-69	Separate answer of defendant Crane Co., filed. m	
5-21-69	Interrogatories by defendant Black & Veatch to plaintiff, filed. g	
6-2-69	Plaintiff's answers to interrogatories by defendant Black & Veatch, Consulting Engineers, filed. b	
7-11-69	Case set for pre-trial on Monday, Aug. 4, 1969, at 2:20 P.M. (FD-J)g	
7-22-69	Ordered by the Court that this case is stricken from the pre-trial assignment of August 4, 1969 by agreement of counsel. (Fred Daugherty-Judge) b	
10-13-69	Motion To Make Additional Parties Plaintiff, filed. js <i>mailed</i>	
10-13-69	Memorandum Brief in Support of Motion to make additional parties, filed. js <i>mailed</i>	
10-14-69	Ordered by the Court that the plaintiff respond to the motion of Black & Veatch, Consulting Engineers to make additional parties plaintiff, with supporting brief, within 10 days from date. (Fred Daugherty - Judge) b	
10-28-69	Memorandum brief of plaintiff in opposition to defendant Black & Veatch's Motion to make additional party plaintiff, filed. e <i>mailed</i>	
12-10-69	Depositions of Leon E. Wesner and Richard O. Newman, taken by defendants, filed. g	
12-12-69	Order filed, that the Motion of defendant Black & Veatch to make certain insurance companies additional parties plaintiff, is granted. (Fred Daugherty - Judge) copies mailed. b	
1-7-70	Case set for pre-trial on Wednesday, Jan. 28, 1970, at 11:00 A.M. (FD-J) ds	
1-12-70	Complaint for joinder of involuntary plaintiff, filed. ds <i>summons issued.</i>	
1-13-70	Summons issued for Underwriters of Lloyd's; Great American Insurance Co.; The Phoenix Insurance Co. and National Surety Company. b	
1-22-70	Defendant's interrogatories to the plaintiff, filed. b	
1-29-70	Return on summons, filed. Served Great American Insurance Company by serving Joe B. Hunt, Okla. State Ins. Commissioner, at Okla. City, Okla. on 1-16-70. (Fees: \$4.00)m	
1-29-70	Return on summons, filed. Served The Phoenix Ins. Co. by serving Joe B. Hunt, Okla. State Ins. Commissioner, in Okla. City, Okla. on 1-16-70. (Fees: \$4.72)m	
1-29-70	Return on summons, filed. Served National Surety Company by serving Joe B. Hunt, Okla. State Ins. Commissioner, in Okla. City, Okla. on 1-16-70. (Fees: \$4.00)m	
1-29-70	Return on summons, filed. Served Underwriters of Lloyds by serving Joe B. Hunt, Okla. State Ins. Commissioner, in Okla. City, Okla. on 1-16-70. (Fees: \$4.00)m	
1-28-70	Pre-trial hearing held, parties to advise Court by letter as to diversity of citizenship. (Fred Daugherty - Judge) b	
2-10-70	Answer to Interrogatories filed by plaintiff. h	
2-24-70	Supplementary interrogatories filed. ds	
3-9-70	Answer of Underwriters of Loyds and Associated Companies, Great American Insurance Company, The Phoenix Insurance Company and National Surety Company, as additional party plaintiffs, filed. m	

(Continued on Page No. 3, Sheet No. 2)

DATE	PROCEEDINGS	Date Order or Judgment Noted
3-11-70 6-30-70	Answer of Public Service Co. to supplemental interrogatories, filed. g Ordered by the Court that this case is set for disposition of jurisdictional question on July 17, 1970 at 11:30 A. M. (Fred Daugherty - Judge) b	
7-17-70	Ordered by the Court that case is stricken from the disposition docket on jurisdictional question as jurisdiction is retained and case to be set for another pre-trial. (Fred Daugherty - Judge) b	
9-14-70	Ordered by the Court that this case is set for pre-trial on Thursday, September 24, 1970 at 2:00 P. M. (Fred Daugherty - Judge) b	
9-18-70	Ordered by the Court that this case is stricken from the pre-trial assignment of September 24, 1970 by agreement of counsel. (Fred Daugherty - Judge) b	
11-3-70	Case set for Pre-Trial on Friday, December 4, 1970 at 3:30 P.M. (FD-J)v	
12-1-70	Motion of defendant Crane Co., for Summary Judgment, filed. b	
12-1-70	Memorandum brief in support of defendant Crane Company's motion for Summary Judgment, filed. b	
12-4-70	Pre-trial hearing held, ordered that the plaintiff is granted 10 days to respond to Crane's motion for Summary Judgment and case is to be set on Jury trial docket. (Fred Daugherty - Judge) b	
12-29-70	Defendant, Black & Veatch Consulting Engineers' answer to the pleading of Great American Insurance Company, the Phoenix Insurance Company and the National Surety Corporation, filed.	
1-8-71	Case set for jury trial, 9:30 A.M., Tuesday, 2-16-71. (FD-J)g	
1-14-71	Plaintiff's response to motion for summary judgment of Crane Company, filed. b	
1-18-71	Order filed and entered that the defendant Crane Company's motion for summary judgment is granted and plaintiffs' complaint is dismissed against Crane Company, a Foreign Corporation. (Fred Daugherty - Judge) b copies mailed.	
1-22-71	Ordered by the Court that this case is set for further pre-trial on Tuesday January 26, 1971 at 11:15 A. M. (Fred Daugherty-Judge)b	
1-26-71	Further pre-trial held, defendant to file motion to dismiss as to Great American Insurance Company, The Phoenix Insurance Company and National Surety Company, with brief. Defendant requests settlement papers from Loyds of London, case passed to 12:00 Noon, January 27, 1971. (Fred Daugherty - Judge) b	
1-27-71	Ordered by the Court that the defendant is granted leave to file amended answer; and that this case is stricken from the jury trial assignment on February 16, 1971. (Fred Daugherty - Judge) b	
1-27-71	Amended Answer of defendant, Black & Veatch, Consulting Engineers, a partnership, filed. b	
2-8-71	Deposition of Joseph Rogers, on behalf of the plaintiff, taken on January 20, 1971, before Frank L. Peterson, CSR, paid by plaintiff the sum of \$42.00. Filed. r	
2-8-71	Deposition of Merl j. Lindburg, on behalf of the Defts., taken on January 15, 1971, before Frank L. Peterson, CSR. Paid by the Deft. the sum of \$30.00). Filed. r	
2-8-71	Deposition of J. R. Misenheimer, on behalf of the Defts., taken on December 28, 1970, before Frank L. Peterson, CSR. Paid by Defts. the sum of \$8.00. Filed. r	
2-8-71	Deposition of Robert Newsom, on behalf of the Pltf., taken on January 20, 1971, before Frank Peterson, CSR. Paid by Plaintiff the sum of \$25.00. Filed. r	

OVER

DATE	PROCEEDINGS	Date Order or Judgment Noted
2-8-71	Deposition of Glen Bryson, on behalf of the Defts., taken on Dec. 25, 1970, before Frank Peterson, CSR. Paid by Defts. the sum of \$56.00. Filed. r	
2-8-71	Deposition of Jerry Kingsolver, on behalf of the Defts., taken on December 29, 1970, before Frank Peterson, CSR. Paid by Defts. the sum of \$92.00. Filed. r	
2-8-71	Deposition of Cameron K. McNeese, on behalf of the Defts, taken on December 29, 1970, before Frank L. Peterson, CSR. Paid by Defts. the sum of \$68.00. Filed. r	
2-8-71	Deposition of Richard A. Schaefer, on behalf of the Defts., taken on December 28, 1970, before Frank L. Peterson, CSR. Paid by Defts. the sum of \$95.00. Filed. r t	
3-1-71	Motion of defendant to dismiss as against Great American Insurance Company, Phoenix Insurance Company, and National Surety Company, filed. b <i>del 2-3</i>	
3-1-71	Defendant Black & Veatch's brief in support of motion to dismiss as to three insurance companies, filed. b <i>del 3-3</i>	
3-5-71	Copy of Judge Daugherty's letter to Joe Sharp if motion of defendant Black & Veatch to dismiss as to three insurance companies is opposed respond, with brief, within 15 days, filed.	
3-9-71	Deposition of Robert W. Persons, taken by defendants before Harvey W. Stephens, CSR. Fee pd by defendants, \$206.00. filed. ds	
3-10-71	Deposition of Archy Fuller, taken on behalf of defendant, Black & Veach, by Thomas G. Bloxom, CSR, on 1-14-71, filed. \$78 pd by deft., ds	
3-10-71	Deposition of Lloyd E. Williams taken on behalf of defendant, Black and Veach, by Thoms G. Bloxom, CSR, on 1-14-71, filed. \$81 pd by deft. ds	
3-10-71	Deposition of Alvin A. Beene, on behalf of defendant, Black & Veach, taken by Thomas G. Bloxom, on 1-14-71, filed. \$66 pd by defendant. ds	
3-10-71	Deposition of Perry R. Allison, on behalf of defendant, Black & Veach, by Thomas G. Bloxom, CSR, on 1-14-71, filed. ds	
3-23-71	Response of pltf. to deft. Black & Veatch's motion to dismiss as to Great American Insurance Company, Phoenix Ins. Co., and National Surety Company, filed. m <i>mailed</i>	
5-5-71	Further hearing held, parties represented, statements made, case to be set on jury trial docket. Parties to file briefs simultaneously within 20 days. (Fred Daugherty, Judge)	
5-27-71	Ordered by the Court that deft. Black and Veatch is granted an extension of 10 days in which to prepare briefs. (FD-J)m	from 5-25-71
6-2-71	Supplemental brief on Deft's Motion to Dismiss as against Great Amer. Ins. Co., Phoenix Ins. Co., and Nat'l Surety Co., Filed. r <i>mailed</i>	
6-4-71	Brief of the Pltf's Proposition to the Deft's Motion to Dismiss Great American Ins. Co., Phoenix Insurance Company and Nat'l Surety Company, filed. r <i>mailed</i>	
6-16-71	Order filed, that Deft's Motion to Dismiss as to the 3 ins. companys and for reduction of Pltf's prayer is overruled at this time. (FD-J)r	
8-24-71	Ordered that this case be set for Jury Trial on Monday, October 18, 1971 at 10:00 A.M. (FD-J)r	
10-14-71	Deposition of C. A. Slocomb on behalf of plaintiffs, taken by James C. Hickerson, CSR, on 10-11-71, filed. \$64.00 pd by plaintiffs. ds	
10-15-71	Deposition of John K. Keintigh on behalf of plaintiff, filed. (\$44.00)g	
10-15-71	Deposition of Riley D. Woodson on behalf of pltf., filed. (\$46.00)g	
10-18-71	Deposition of C. W. Thomas on behalf of defendants, filed. (\$42.00)g	

(OVER)

DATE	PROCEEDINGS	Date Order or Judgment Noted
10-18-71	Case called for Jury Trial on 10-18-71, 10-19-71, 10-20-71, and 10-21-71. Parties represented and announce ready for trial. Jury returns with Verdict at request of Court. <u>Verdict received, read, and filed in open court.</u> Jurors discharged. Court ordered that Judgment to be filed in this case. Exhibit #14 of the Defts may be removed by order of court, after deft. has taken 3 photographs of exhibit, (1 photo from front, 1 photo from each side) for the Clerk's record. At which time, Court will release said exhibit to the defts. Parties agree on this item. (FD-J)r	
10-21-71	Judgment filed and entered, that pltf's take nothing, the action is dismissed on its merits, and deft. recover of pltf's, its costs of action. (JHP-Clerk) Filed and Entered. r g	
10-21-71	Pltf's Exhibits 1-26 and 28 in file. r	
10-21-71	Deft's Exhibits 1, 15-25 in file. Exhibits 1a, 3-13 in exhibit room. r	
11-1-71	Application for Attorney Fees, filed. v	
11-1-71	Brief in Support of Motion, filed. v	
11-1-71	Defendant's Bill of Costs, in the amount of \$32,856.33, filed. Set for Taxing on 11-29-71 at 10:00 A.M. -v- <i>mailed</i>	
11-3-71	Plaintiffs' response to defendant's application for attorney fees, filed. ds	
11-2-71	Copy of Letter dated 11-2-71 from j. D. to Best, Sharp, et al, requesting that pltf respond to Application for Attorney fees with supporting brief within 10 days from this date. Filed. r	
11-4-71	Order, denying Deft's Application for Attorney Fees, filed. (FD-J)r (Copies mailed to all attorneys)	
11-19-71	Notice of appeal by plaintiffs, filed. cpy to USCA, and Rucker & Tabor.g	
11-22-71	Cost Bond filed for \$250.00. The Public Service Co., Underwriters at Lloyds, Great American Insurance Co., Phoenix Ins. Co. & National Surety Co., as principals and the Trinity Universal Ins. Co., as surety, filed. r	
11-29-71	Costs taxed in the sum of \$291.33. John H. Poe, Clerk. ds	
12-6-71	Motion to retax costs, filed by pltf., filed. r <i>mailed</i>	
, 12-13-71	Order filed, that Motion to Retax costs is stricken for failure of Pltf's to comply with the requirements of Rule 13 of this Court, Filed. (FD-J)r (copies mailed to attys)	
12-20-71	Order extending time to perfect appeal to Jan. 15, 1972, filed. (FD-J) copies mailed to USCA & counsel. g	
12-21-71	Designation of Record of pltf's., filed. rm	
1-11-72	Appeal record (original and 3 copies) sent to USCA. rm	
11-10-72	Mandate & Opinion of USCA, affirming judgment of 10-21-71, filed and spread of record. g	

DATE	PROCEEDINGS	Date Order or Judgment Noted